

AMENDED IN ASSEMBLY MAY 25, 2012

AMENDED IN ASSEMBLY MAY 2, 2012

AMENDED IN ASSEMBLY APRIL 11, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 2439**

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**Introduced by Assembly Member Eng  
(Coauthor: Assembly Member Skinner)**

February 24, 2012

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An act to add Section 19573 to the Revenue and Taxation Code, relating to taxation.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2439, as amended, Eng. Corporation taxes: disclosure.

The Personal Income Tax Law and the Corporation Tax Law impose taxes on, or measured by, income. Existing law requires the Franchise Tax Board to make available as a matter of public record each calendar year a list of the 250 largest tax delinquencies in excess of \$100,000, and requires the list to include specified information with respect to each delinquency.

This bill would, *on and after specified dates*, require the ~~Controller~~ *Franchise Tax Board to make available, upon receipt of request*, specified ~~income~~ *corporation* tax liability and income apportionment information ~~that the bill would require to be disclosed by specified corporations, to both publish that information and make that information a matter of public record, as provided. This bill would also require the Franchise Tax Board to provide the Controller with specified information.~~ This bill would also make findings and declarations regarding the intent of the Legislature.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) Publicly traded corporations are required to disclose their  
4 federal and state corporation taxes to the federal Securities and  
5 Exchange Commission through the Form 10-K. State corporation  
6 taxes, however, are aggregated without regard to state, so the  
7 information available at the federal level does not specify  
8 corporation taxes of particular states.

9 (b) Recent changes in the state's Corporation Tax Law, which  
10 provide for the elective use of single-sales factor apportionment,  
11 combined with other provisions in this area of tax law, have had  
12 little analysis and scrutiny with regard to their impact on taxpayers  
13 and California.

14 (c) Therefore, it is the intent of the Legislature, in adding Section  
15 19573 to the Revenue and Taxation Code, to supplement federal  
16 tax reporting requirements for those corporations filing a Form  
17 10-K by adding a single data point that would be reported to the  
18 Controller and made publicly available to the public upon request.  
19 This single data point would disclose the amount of specified tax  
20 liability of those corporations that are already required to disclose  
21 their federal and aggregate state corporation taxes.

22 SEC. 2. Section 19573 is added to the Revenue and Taxation  
23 Code, to read:

24 19573. (a) (1) ~~Each~~ *On and after September 1, 2014, the*  
25 *Franchise Tax Board shall make available, upon request,*  
26 *information regarding the tax liability of each corporation that is*  
27 *required to file an annual Form 10-K with the federal Securities*  
28 *and Exchange Commission shall annually disclose its amount of*  
29 *Commission. The information made available upon request shall*  
30 *be the tax liability for a specified corporation with respect to the*  
31 *taxes imposed by Part 11 (commencing with 23001) for the*  
32 *previous taxable year that closed two years before the request*  
33 *made pursuant to this subdivision and whether the corporation*  
34 *made an election to apportion its income in accordance with*  
35 *Section 25128.5 for the previous that taxable year to the Controller*

1 ~~within three months of the corporation's deadline for filing its~~  
2 ~~annual Form 10-K with the federal Securities and Exchange~~  
3 ~~Commission, in a form and manner as prescribed by the Controller.~~

4 (2) ~~On or before April September 1, 2013, the Franchise Tax~~  
5 ~~Board shall make available, upon request, information regarding~~  
6 ~~the tax liability of each corporation that is required to file an annual~~  
7 ~~Form 10-K with the federal Securities and Exchange Commission~~  
8 ~~shall disclose its amount of Commission. The information made~~  
9 ~~available upon request shall be the tax liability with respect to the~~  
10 ~~taxes imposed by Part 11 (commencing with 23001) for the 2010~~  
11 ~~and 2011 taxable years and whether the corporation made an~~  
12 ~~election to apportion its income in accordance with Section 25128.5~~  
13 ~~for the 2011 taxable year to the Controller in a form and manner~~  
14 ~~as prescribed by the Controller.~~

15 ~~(b) (1) Notwithstanding any other provision of law, the~~  
16 ~~Controller shall publish the information disclosed pursuant to~~  
17 ~~subdivision (a) on the Controller's Internet Web site and shall~~  
18 ~~maintain a record, available to the public, of that information.~~

19 ~~(2)~~  
20 ~~(b) If the tax liability amount is contested or otherwise under~~  
21 ~~dispute, by either the taxpayer subject to the taxes imposed~~  
22 ~~pursuant to Part 11 (commencing with Section 23001) or the~~  
23 ~~Franchise Tax Board, the Controller shall include that information~~  
24 ~~on the Controller's Internet Web site and in the Controller's~~  
25 ~~records. The Franchise Tax Board shall provide the Controller~~  
26 ~~with the information needed to comply with this paragraph~~  
27 ~~Franchise Tax Board shall so indicate in its response to a request~~  
28 ~~for information regarding the tax liability of a corporation.~~

29 ~~(3) The Controller shall publish the information disclosed~~  
30 ~~pursuant to subdivision (a) two years after the date the information~~  
31 ~~is required to be submitted.~~

32 (c) For purposes of this section, "tax liability" means the amount  
33 of tax owed after the application of any credits and excluding  
34 overpayments, estimated tax payments, withholding, or amounts  
35 paid with an extension of time to file tax return.